

## REMARKS

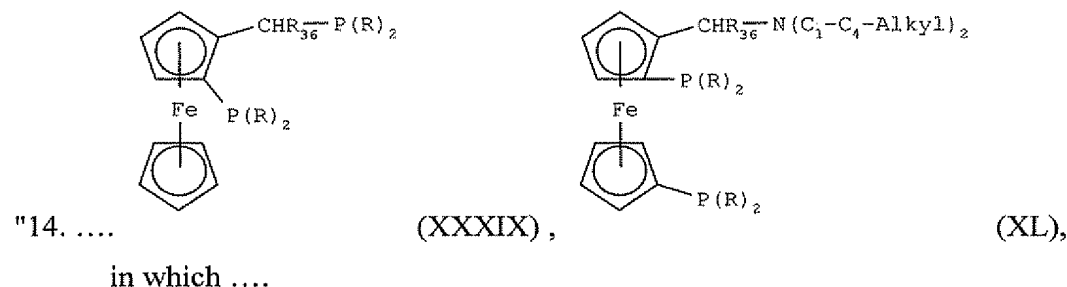
### Claim Rejections Under 35 USC § 112, and Claim Amendments

#### **Term "PO<sub>3</sub>M<sub>1</sub>" / "PO<sub>3</sub>M<sub>2</sub>"**

The Office Action regards „PO<sub>3</sub>M<sub>2</sub>“ as new matter. Applicants respectfully disagree for reasons already of record, but to achieve an expeditious allowance after the already lengthy prosecution, deleted said term from the application.

#### **Definition of R**

The Office Action alleges that the following passage (**bold**) within claim 14 lacks clarity:



**R** stands for cyclohexyl or unsubstituted phenyl or phenyl substituted with one to three C<sub>1</sub>-C<sub>4</sub>-alkyl, C<sub>1</sub>-C<sub>4</sub>-alkoxy, trifluoromethyl, **or an -NH<sub>2</sub> (C<sub>1</sub>-C<sub>4</sub>-alkyl)NH-, (C<sub>1</sub>-C<sub>4</sub>-alkyl)<sub>2</sub>N-,**

The Examiner is correct by noting an error. However, it is evident that a comma is missing and a correct reading for said passage should be:

**"or an -NH<sub>2</sub>, (C<sub>1</sub>-C<sub>4</sub>-alkyl)NH-, (C<sub>1</sub>-C<sub>4</sub>-alkyl)<sub>2</sub>N-".**

It is apparent that intended is an amine within the given list for possible substituents for a phenyl group, whereby one or both hydrogen atoms can be replaced by an alkyl group, thus leading to a mono- or dialkylamine.

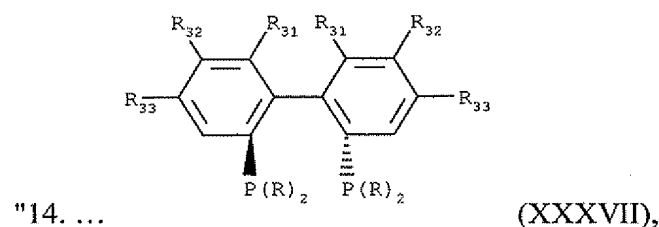
Consequently, the error and its correction to

"or an -NH<sub>2</sub>, (C<sub>1</sub>-C<sub>4</sub>-alkyl)NH-, (C<sub>1</sub>-C<sub>4</sub>-alkyl)<sub>2</sub>N-" are clearly evident to one of skill in the art.

Both the error and the correct option for correction is obvious.

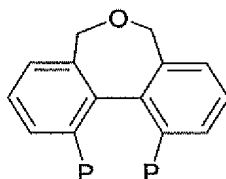
### Definition of R<sup>31</sup>

The Office Action alleges that the following passage (**bold**) within claim 14 lacks clarity:



... R<sub>31</sub> denotes methyl, methoxy, or **both R<sub>31</sub> together** denote **oxadimethylene**,"

In our view, there is no apparent error as it is clear that the following compound (shown without radicals being not relevant) contains the following bridge, said bridge appears to be named properly as an "oxadimethylene" (bridge), thus, without lack of clarity:

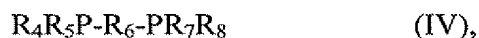


For providing further and neutral evidence applicants refer to an article by Ronald N. Warrener et al. in *Pure and Appl. Chem.*, Vol. 58, No. 1, pp 161-175, wherein the bridge in compound 44 on page 164 is named "oxadimethylene" (please find enclosed the cover page 161 and said page 164 - with handwritten markings - of said article).

### Definition of R<sup>6</sup>

The Office Action alleges that the following passage (**bold**) within claim 14 lacks clarity:

"14. ....



in which

**R<sub>6</sub>** is C<sub>2</sub>-C<sub>4</sub> alkylene, unsubstituted or substituted with C<sub>1</sub>-C<sub>6</sub> alkyl, C<sub>1</sub>-C<sub>6</sub> alkoxy, C<sub>5</sub> or C<sub>6</sub> cycloalkyl, phenyl, naphthyl or benzyl; .....; 3,4- or 2,4-pyrrolidinylene or **methylene-4-pyrrolidine-4-yl** whose nitrogen atom is substituted with hydrogen, C<sub>1</sub>-C<sub>12</sub>- alkyl, phenyl, benzyl, C<sub>1</sub>-C<sub>12</sub> alkoxycarbonyl, C<sub>1</sub>-C<sub>8</sub> acyl, ....."

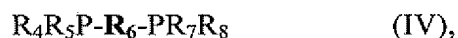
The Examiner is correct by noting an obvious error by citing "**methylene-4-pyrrolidine-4-yl**". Examples for e.g. a "3,4-pyrrolidinylene" and a "2-methylene-4-pyrrolydinyI" can be found in claim 14 with formulae (XXXIII) and (XXXIV). The latter is shown below.

By referring to the compound of formula (XXXIV) one would find it clear that "**methylene-4-pyrrolidine-4-yl**" should have been "**2-methylene-4-pyrrolydinyI**". Formula (XXXIV) below shows the positions at the pyrrolydine, according to which the methylene is in 2-position and the bond to the phosphor atom is at the 4-position.

#### Definition of R<sup>6</sup> and R<sup>28</sup>

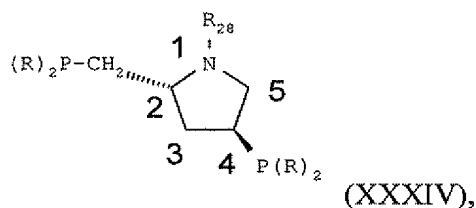
The Office Action alleges that the following passages (**bold**) within claim 14 lacks clarity:

"14. ....



in which

**R<sub>6</sub>** is C<sub>2</sub>-C<sub>4</sub> alkylene, unsubstituted or substituted with C<sub>1</sub>-C<sub>6</sub> alkyl, C<sub>1</sub>-C<sub>6</sub> alkoxy, C<sub>5</sub> or C<sub>6</sub> cycloalkyl, phenyl, naphthyl or benzyl; .....; 3,4- or 2,4-pyrrolidinylene or methylene-4-pyrrolidine-4-yl whose **nitrogen atom is substituted with** hydrogen, C<sub>1</sub>-C<sub>12</sub>- alkyl, phenyl, benzyl, C<sub>1</sub>-C<sub>12</sub> alkoxycarbonyl, C<sub>1</sub>-C<sub>8</sub> **acyl**, ....."

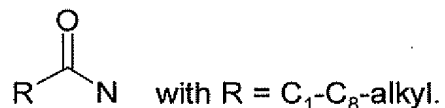


...  $R_{28}$  represents  $C_1$ - $C_8$ -alkyl,  $C_1$ - $C_8$ -acyl or  $C_1$ - $C_8$ -alkoxycarbonyl."

Above formula (XXXIV) shows a "2-methylene-4-pyrrolydinyI" as an example for the divalent group  $R_6$  in a compound  $R_4R_5P-R_6-PR_7R_8$  as discussed above. Further, the positions 1-5 are indicated.

With regard to "acyl" - there is no apparent error, as it is clear to one of ordinary skill in the art that the following radical is named properly and thus, without lack of clarity:

" $C_1$ - $C_8$  acyl" represents in e.g. a compound of formula (XXXIV) the group



The normally understood and accepted definition of acyl as evident in the definition from the McGraw-Hill Dictionary of Science and Technical Terms © 1976 by McGraw-Hill is

**acyl** [ORG CHEM] A radical formed from an organic acid by removal of a hydroxyl group; the general formula is  $RCO$ , where  $R$  may be aliphatic, alicyclic, or aromatic.

This definition demonstrates that one of ordinary skill in the art would not understand  $R$  to be, for example,  $H$ .

Reconsideration of all the rejections is respectfully and courteously requested.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,

/Csaba Henter/

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